IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.10275 OF 2004

1. Dr.Surekha P. Bhandari
   Aged : 26 years, Employed as Junior Resident in Biochemistry in the Department of Biochemistry, B.J. Medical College, Pune, and Permanent Resident of: 975, Kumbhariane, Bhingar A/P, AHMEDNAGAR—414 002.

2. Dr. Sagar Salunkhe,
   Aged: 34 years, Employed as Junior Resident – II in Biochemistry in the Department of Biochemistry, B.J. Medical College, Pune, and Permanent Resident of: A/P Lavanmalhi, Taluka – Walwa, DISTRICT – SANGLI.

3. Dr. Kshama Pimpalgaonkar
   Aged: 27 years, Employed as Junior Resident – II in Biochemistry in the Department of Biochemistry, **B. J. Medical** College, Pune, and Permanent Resident of: A/P Khanapur, Tal. Haveli, Panchet Road, PUNE.

4. Dr. Vilas Chavan
   Aged: 28 years, Employed as Junior Resident - I in Biochemistry in the Department of Biochemistry, B.J. Medical College, Pune, and Permanent Resident of : Pimpalgaon (L), Taluka – Purna (Jn.), DIST. PARBHANI.

5. Dr. Sanjyoti Bandebuche
   Aged: 24 years, Employed as – Junior Resident – II, in Biochemistry in the

Department of Biochemistry, B.J. Medical College, Pune and Permanent Resident of : C/o. Dr. Dhavan, Jinning Mangal Karyalaya, Warora, DIST. CHANDRAPUR.

6. Dr. Jyoti Dande – Kulkarni
   Aged: 25 years, Employed as – Junior Resident – I in Biochemistry in the Department of Biochemistry, B.J. Medical College, Pune, and Permanent Resident of: C/o. M. G. Kulkarni, Near Balaji Mandir, New Moncha, Partur, DISTRICT-JALNA.

7. Dr. Kailas Gadekar
   Aged: 29 years, Employed as - Junior Resident – I, in Biochemistry in the Department of Biochemistry, B. J. Medical College, Pune, and Permanent Resident of : Taluka Rahati, DIST: AHMEDNAGAR.

8. Dr. Meghana K. Padwal
   Aged : 28 years, M.D. (Biochemistry), and Resident of F-502, Shree Rajyog Society, Bibewadi, PUNE—411 037.

9. Dr. Vaishali V. Dhat
   Aged: 31 years, M.D. (Biochemistry), and Resident of 74, C/o. Satoskar, Sector No.27, Pradhikaran, Nigadi, PUNE.

V/s.

1. State of Maharashtra
   Through the Secretary,
   Medical Education and Drugs Department, Mantralaya,
   MUMBAI—400 032.

2. The Director of Medical Education And
Research, St. George Hospital Compound,
Dental College Building, 4th floor,
MUMBAI—400 001.

3. The Dean, B.J. Medical College,
PUNE.

4. The Registrar,
Pune University, PUNE—411 007.

5. The Secretary
Maharashtra Public Service Commission
Fort, MUMBAI—4 00 023. : Respondents

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Mr.S. P. Saxena for the petitioners.

Mr.P. M. Patil, Assistant Government Pleader for respondent Nos.1 to 3 & 5.

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CORAM : DALVEER BHANDARI, C.J. &
S.A. BOBDE, J.

DATE : FEBRUARY 15, 2005.

ORAL JUDGEMENT (Per Dalveer Bhandari, C.J.)

1. The petitioners have approached this Court with a prayer that respondent Nos.1 and 2 be directed to forthwith comply with the Medical Council of India (for short the "M.C.I.") Regulations restricting the number of teaching faculty of non-medicos in the Department of Biochemistry of B.J. Medical College, Pune, to the

limit fixed by the Medical Council of India. In other words, the respondents be restrained from violating the norms fixed by the Medical Council of India.

2. The petitioners have also prayed that respondent Nos.1 and 2 be directed to initiate action to fill the vacant teaching faculty posts from amongst those with M.D. (Biochemistry) qualification, so as to comply with the requirement mandated by the Medical Council. It is further prayed that this can be carried out by transfer of Medico M. D. (Biochemistry) teachers from other Medical Colleges to B.J. Medical College, Pune, in place of non-Medical staff in the said College.

3. The petitioners have also prayed that respondent Nos.1 to 3 be directed to forward a fresh compliance report to the Medical Council of India after adjustment of ratio of Medical and non-Medical teachers in B.J. Medical College, Pune.

4. The petitioners have also prayed that respondent Nos.1

and 2 be restrained from filling up the existing vacant posts of teachers in the Department of Biochemistry of B.J. Medical College, Pune, from non-Medical Teaching staff until their strength comes down below 50% of the sanctioned posts of teachers.

5. The learned counsel for the petitioners has drawn our attention to the Rules formulated by the Medical Council of India. In clause 2 of Schedule I, it is mentioned that teachers may be appointed to the extent of 50% of the total number of posts in the Department. In B.J. Medical College, presently, there are 14 sanctioned posts and out of them, two are vacant. In the category of Professor, one Professor is a Medico with M.D. (Biochem) qualification and another is a non-Medico with M. Sc. (Biochem) or Ph.D. Qualification. In the category of Associate Professors, two are Medicos with M. D. (Biochem) qualification and three are non-Medicos with M.Sc. (Biochem) or Ph.D. qualification. In the category of Lecturers, out of seven sanctioned posts, five are non-Medicos with M.Sc. (Biochem) or Ph.D. qualification and two posts are vacant. In other words, out of the 12 posts which have been

filled in the teaching faculty, only three teachers, viz., two Associate Professors and one Professor are Medicos with M.D. (Biochem) qualification and the rest are non-Medicos. The ratio of appointment has been disturbed and it is not in consonance with the Rules of the Medical Council of India.

6. We have heard the learned counsel for the parties. In the facts and circumstances of the case, we deem it appropriate to issue the following directions:-

(i) B.J. Medical College, Pune, is directed to strictly adhere to the Rules framed by the Medical Council of India.

(ii) We direct respondent Nos.1 and 2 to immediately initiate action to fill up the vacant teaching faculty posts from amongst those with M.D. (Biochemistry) qualification, so as to comply with the requirements mandated by the Medical Council of India.

(iii) Respondent Nos.1 and 2 can meet the requirements of the Medical Council of India by transfer of Medico M.D.

(Biochemistry) teachers from other Medical Colleges to B.J. Medical College, Pune, in place of non-Medical staff in the said College.

(iv) We also restrain respondent Nos.1 and 2 from filling up the existing vacant posts of teachers in the Department of Biochemistry of B. J. Medical College, Pune, from non-Medical teaching staff, until their strength comes down below 50% of the sanctioned posts of teachers.

(v) We further direct respondent Nos.1 to 3 to forward a fresh compliance report to the Medical Council of India after adjustment of ratio of Medical and non-Medical teachers in B.J. Medical College, Pune, in consonance with the rules of the Medical Council of India.

(vi) We direct the respondents to carry out the exercise indicated above, as expeditiously as possible, and, in any case, within one year from today.

7. No further directions are necessary. This Writ Petition is, accordingly, disposed of.

Sd/-
CHIEF JUSTICE

Sd/-

S.A. BOBDE, J.